IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 812 of 2006

Smt.Dhodnabai Shivram Sabale
deceased through her legal heir
Shri Kashinath Shivram Sabale ... Appellant

V/s

Shri Baban Damodar Lonkar
& Ors. ...Respondents

Shri V.B.Tapkir for Appellant
Shri P.B.Shah for Respodnent

CORAM:S.R.SATHE,J.

DATED:15th Dec. 2006

P.C.:-

1. Heard the learned Advocate for the Appellant so also learned Advocate for the Respondent. Perused the papers. It is very clear from the material on record that plaintiff's suit for partition and separate possession to the extent of 1/2 share was decreed by the trial Court. The said decree has been confirmed by the first appellate Court.

2. The learned Advocate for the Appellant tried to argue before me that courts below have not properly

taken into consideration the contention of the defendant with regard to the adverse possession. However, both the courts below have rightly held that defendants have not become the owners by adverse possession. Moreover admittedly after the death of Anusaya, names of plaintiff and defendant were entered in the record of rights to the extent of half share each. Admittedly, in the year 1993 the defendant had in fact filed a suit for declaration that defendant is the sole owner of the property in question. However, the said suit is also dismissed.

3. Under the circumstances there no substantial question of law is involved in the matter. Hence the appeal is dismissed in limine.

(S.R.SATHE,J.)